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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2010-284

11 **ESTRELLA CUSTODIO FAJARDO, AKA**
12 **ESTRELLA SINGH CUSTODIO**
13 **15619 Wheatstone Ave.**
Norwalk, CA 90650
14 **Registered Nurse License No. 248457**

A C C U S A T I O N

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about October 31, 1974, the Board of Registered Nursing issued Registered
23 Nurse License Number 248457 to Estrella Custodio Fajardo, aka Estrella Singh Custodio
24 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
25 the charges brought herein and will expire on February 28, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

5. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

6. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

7. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

1 "(1) Formulates a nursing diagnosis through observation of the client's physical condition
2 and behavior, and through interpretation of information obtained from the client and others,
3 including the health team.

4 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and
5 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
6 for disease prevention and restorative measures.

7 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health
8 treatment to the client and family and teaches the client and family how to care for the client's
9 health needs.

10 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
11 subordinates and on the preparation and capability needed in the tasks to be delegated, and
12 effectively supervises nursing care being given by subordinates.

13 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical
14 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
15 communication with the client and health team members, and modifies the plan as needed.

16 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve
17 health care or to change decisions or activities which are against the interests or wishes of the
18 client, and by giving the client the opportunity to make informed decisions about health care
19 before it is provided."

20 8. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
21 surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
22 disciplinary action during the period within which the license may be renewed, restored, reissued
23 or reinstated.

24 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 10. Respondent is subject to disciplinary action under section 2761, subsection (a),
4 subparagraph (1) of the Code as defined in California Code of Regulations, title 16, section 1442
5 in that she engaged in conduct that constituted an extreme departure from the standard of care
6 which, under similar circumstances, would have ordinarily been exercised by a competent
7 registered nurse. The circumstances are as follows:

8 11. On or about April 24, 2005, Respondent was assigned to the 7:00 p.m. to 7:00 a.m.
9 shift in the Intensive Care Unit at the Suburban Medical Center ("SMC"). Respondent was
10 assigned to care for Patient R.B., an 88 year-old female. Patient R.B. was admitted to SMC on
11 April 6, 2005, with the following admitting diagnoses: left lower extremity wound infected with
12 methicillin-resistant Staphylococcus aureus ("MRSA"), coronary artery disease, dementia,
13 peripheral vascular disease, neuropathy, sick sinus syndrome, blindness, decreased hearing and
14 facial skin cancer. On the patient's "Critical Care Record" for April 24, 2005, Respondent wrote
15 that she received the patient at 7:00 p.m. that evening.

16 12. At 9:29 p.m. on April 24, 2005, Patient R.B.'s cardiac rhythm changed. At 9:49 p.m.,
17 the patient's rhythm per the cardiac monitor readings required advanced and basic cardiac life
18 support measures. Starting at 10:09 p.m., the cardiac rhythm displayed pacer spikes without any
19 cardiac rhythm. The cardiac monitor readings indicate that the patient had no cardiac activity
20 after 10:09 p.m. on April 24, 2005.

21 13. The Respondent's entry for April 25, 2005, at 1:00 a.m. reads as follows: "Patient
22 responding to pain only. Continue Dopamine at 20 mcg/kg/min, Debutamine at 5 mcg/kg/min."

23 14. During an interview with a Board investigator, Respondent stated that she found the
24 patient unresponsive at 2:45 a.m. Respondent noted in the 2:45 a.m. entry in the Critical Care
25 Record that the patient's blood pressure had dropped, that the patient would not respond to
26 painful stimuli and that she was comatose and that her pupils were unequal. Respondent
27 documented that she called a physician and informed him of the patient's change of condition.

1 Respondent told the investigator that the patient did not have a "do not resuscitate" order.

2 Respondent continued to document Patient R.B.'s vital signs up until 6:45 a.m. on April 25, 2005.

3 15. At or around 6:45 a.m. on April 25, 2005, Respondent gave a report to the oncoming
4 nurse, V. P., RN. Nurse V.P. stated that on April 25, 2005, he was working the 7:00 a.m. to 7:00
5 p.m. shift in the Intensive Care Unit at the Suburban Medical Center. He stated that Respondent
6 reported to him that Patient R.B. had expired at 5:00 or 6:00 a.m. that morning. He stated that
7 upon assessing the patient, he found the patient to be very cold to the touch and very stiff. He
8 immediately called a Code Blue and began providing basic and advanced life support measures.
9 He stated that it was too late for the patient and that she was eventually pronounced dead.

10 SECOND CAUSE FOR DISCIPLINE

11 (Incompetence)

12 16. Respondent is subject to disciplinary action under section 2761, subsection (a),
13 subparagraph (1) of the Code as defined in California Code of Regulations, title 16, sections 1443
14 and 1443.5 in that she does not possess and/or failed to exercise that degree of learning, skill, care
15 and experience ordinarily possessed and exercised by a competent registered nurse. Complainant
16 refers to, and by this reference incorporates the allegations set forth above in paragraphs 10-15,
17 inclusive, as though set forth fully.

18 THIRD CAUSE FOR DISCIPLINE

19 (Unprofessional Conduct)

20 17. Respondent is subject to disciplinary action under section 2761, subsection (a), in that
21 she engaged in unprofessional conduct. Complainant refers to, and by this reference incorporates
22 the allegations set forth above in paragraphs 10-15, inclusive, as though set forth fully.

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1 **PRAYER**


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 248457, issued to Estrella
5 Custodio Fajardo, aka Estrella Singh Custodio.

6 2. Ordering Estrella Custodio Fajardo to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.
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12 DATED: 12/7/09


13 LOUISE R. BAILEY, M.ED., RN
14 Interim Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant

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18 accusation.rtf
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